

AMENDED IN SENATE APRIL 12, 2010

**SENATE BILL**

**No. 1364**

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**Introduced by Senator Harman**

February 19, 2010

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An act to add Sections 4011.3 and 5007.3 to the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

SB 1364, as amended, Harman. Prisons: discretionary services.

Under existing law, a sheriff, chief or director of corrections, or a chief of police is authorized to charge a fee in the amount of \$3 for each inmate-initiated medical visit of an inmate confined in a county or city jail who has money in his or her personal account, as specified, and requires all moneys received pursuant to this provision to be transferred to the county or city general fund. Existing law authorizes the Secretary of the Department of Corrections and Rehabilitation to charge a \$5 fee for each inmate-initiated medical visit of an inmate, as specified, and provides that upon appropriation by the Legislature, the funds so received be expended to reimburse the department for direct provision of inmate health care services.

This bill would, in the case of county jails, authorize a sheriff, chief or director of corrections, or chief of police or, in the case of state prisons, authorize the Secretary of the Department of Corrections and Rehabilitation to institute a schedule of fees and assess fees for discretionary services *or a per diem fee for room and board, or both, specified and would define "discretionary services"* to not include certain medical services or services otherwise required by the constitution, statute, or applicable case law. The bill would require a procedure for the appeal of those fees assessed. The bill would provide

a process for the accrual and forgiveness of those fees, as specified. The bill would require that all moneys received pursuant to this bill be expended to reimburse the facilities for the provision of ~~discretionary~~ *those* services, upon approval by the governing board in the case of local facilities or upon appropriation by the Legislature in the case of state facilities.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4011.3 is added to the Penal Code, to  
2 read:  
3 4011.3. (a) A sheriff, chief or director of corrections, or chief  
4 of police is authorized to institute a schedule of fees for  
5 discretionary services, as specified in subdivision (e), *or a per*  
6 *diem fee for room and board, or both*, and assess those fees upon  
7 inmates.  
8 (b) A sheriff, chief or director of corrections, or chief of police  
9 assessing fees pursuant to this section shall establish a procedure  
10 for inmates to appeal fees assessed pursuant to this section.  
11 ~~(e) Inmates shall have the option to either pay for the fees~~  
12 ~~assessed pursuant to this section at the time the service is provided~~  
13 ~~or have the fees accrue in the inmate's personal account at the~~  
14 ~~facility.~~  
15 (c) *The fees assessed pursuant to this section shall be*  
16 *automatically debited from the inmate's personal account. If an*  
17 *inmate is indigent, a negative balance shall accrue in the inmate's*  
18 *personal account.* The amount that may be charged to an inmate  
19 pursuant to this section shall not exceed an amount equal to  
20 twenty-five dollars (\$25) a day. Any amount owed for fees assessed  
21 pursuant to this section at the time the inmate is released from  
22 custody shall remain due and payable as a charge to the inmate.  
23 However, the inmate shall have the option of deferring payment  
24 for those fees for a period not to exceed two years from the date  
25 of release. If the inmate is not incarcerated within two years of his  
26 or her release from custody, this debt shall be forgiven.  
27 (d) Each sheriff, chief or director of corrections, or chief or  
28 police that assesses fees upon inmates pursuant to this section shall  
29 adopt regulations for the implementation of this section.

(e) For purposes of this section, “discretionary services” shall not include services for medical care provided pursuant to Section 4011.2 or services otherwise required by the constitution, statute, or applicable case law.

(f) All moneys received by a sheriff, chief or director of corrections, or chief of police pursuant to this section shall be expended, upon approval by the governing board of the city, county, or city and county with jurisdiction, to reimburse the facility providing discretionary services, *or room and board, or both*, for the provision of those services.

SEC. 2. Section 5007.3 is added to the Penal Code, to read:

5007.3. (a) The Secretary of the Department of Corrections and Rehabilitation is authorized to institute a schedule of fees for discretionary services, as specified in subdivision (e), and assess those fees upon inmates.

(b) The Secretary of the Department of Corrections and Rehabilitation shall establish a procedure for inmates to appeal fees assessed pursuant to this section.

~~(c) An inmate shall have the option to pay for the fees assessed pursuant to this section at the time the service is provided or have the fees accrue in the inmate’s personal account at the facility. The~~

*(c) The fees assessed pursuant to this section shall be automatically debited from the inmate’s personal account. If an inmate is indigent, a negative balance shall accrue in the inmate’s personal account. The amount that may be charged to an inmate pursuant to this section shall not exceed an amount equal to twenty-five dollars (\$25) per day. Any amount owed for fees assessed pursuant to this section at the time the inmate is released from custody shall remain due and payable as a charge to the inmate. However, the inmate shall have the option of deferring payment for those fees for a period not to exceed two years from the date of release. If the inmate is not incarcerated within two years of his or her release from custody, this debt shall be forgiven.*

(d) The Secretary of the Department of Corrections and Rehabilitation shall adopt regulations for the implementation of this section.

(e) For purposes of this section, “discretionary services” shall not include services for medical care provided pursuant to Section 5007.5 or services otherwise required by the constitution, statute, or applicable case law.

1 (f) All moneys received by the Secretary of the Department of  
2 Corrections and Rehabilitation pursuant to this section shall, upon  
3 appropriation by the Legislature, be expended to reimburse prison  
4 facilities for providing discretionary services, *or room and board,*  
5 *or both,* in an amount that is proportional to the amount of moneys  
6 received from those prison facilities.

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